IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

Crl.MC.No. 3701 of 2007()

CC.197/2005 of CHIEF JUDL.MAGISTRATE, ERNAKULAM

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PETITIONERS:

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1. H. AHMED KHAN, CHAIRMAN,
M/S LIBRA STEELS PVT. LTD.,
VII/639, NEW INDUSTRIAL
DEVELOPMENT AREA,
KANCHIKODE, PALAKKAD.

2. MURALEEDHAR, MANAGING DIRECTOR,
M/S LIBRA STEELS PVT. LTD.,
VII/639, NEW INDUSTRIAL
DEVELOPMENT AREA,
KANCHIKODE, PALAKKAD.

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENTS:

STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI. M.S. BREEZ.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 11/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 3701 of 2007

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Dated this the 11th day of December, 2007

O R D E R

The petitioners face indictment in a prosecution under Section 138 of the N.I. Act. Cognizance was taken as early as in 2005, as can be seen from the number assigned i.e. C.C.197 of 2005. The petitioners did not appear before the learned Magistrate. Reckoning them as absconding accused, coercive processes have been issued against them. The petitioners find such processes issued by the learned Magistrate chasing them.

2. According to the petitioners they are absolutely innocent. Their absence was not willful or deliberate, but on account of reasons beyond their control. They are willing to surrender before the learned Magistrate, but he apprehend that their applications for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions

may be issued to release the petitioners on bail on the date of surrender itself.

3. It is certainly for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the applications for bail to be filed by the petitioners when they surrender before the learned Magistrate on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must

proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

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